

Senate, March 9, 1998. The Committee on Labor and Public Employees reported through SEN. PRAGUE, 19th DIST., Chairman of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING CLAIMS DEADLINES FOR THE CONNECTICUT INSURANCE GUARANTY FUND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (1) of section 38a-841
2 of the general statutes, as amended by public act
3 97-43 and section 3 of public act 97-125, is
4 repealed and the following is substituted in lieu
5 thereof:

6 (1) Said association shall: (a) Be obligated
7 to the extent of the covered claims existing prior
8 to the determination of insolvency and arising
9 within thirty days after the determination of
10 insolvency, or before the policy expiration date
11 if less than thirty days after the determination,
12 or before the insured replaces the policy or
13 causes its cancellation, if he does so within
14 thirty days of such determination, provided such
15 obligation shall be limited as follows: (i) With
16 respect to covered claims for unearned premiums,
17 to one-half of the unearned premium on any policy,
18 subject to a maximum of two thousand dollars per
19 policy; (ii) with respect to covered claims other
20 than for unearned premiums, such obligation shall
21 include only that amount of each such claim which
22 is in excess of one hundred dollars and is less

23 than three hundred thousand dollars, except that
24 said association shall pay the full amount of any
25 such claim arising out of a workers' compensation
26 policy, provided in no event shall (A) said
27 association be obligated to any claimant in an
28 amount in excess of the obligation of the
29 insolvent insurer under the policy form or
30 coverage from which the claim arises, or (B) said
31 association be obligated for any claim filed with
32 the association after the expiration of two years
33 from the date of the declaration of insolvency
34 unless such claim arose out of a workers'
35 compensation policy and was timely filed in
36 accordance with section 31-294c; (b) be deemed the
37 insurer to the extent of its obligations on the
38 covered claims and to such extent shall have all
39 rights, duties, and obligations of the insolvent
40 insurer as if the insurer had not become
41 insolvent; (c) allocate claims paid and expenses
42 incurred among the three accounts, created by
43 section 38a-839, separately, and assess member
44 insurers separately (i) in respect of each such
45 account for such amounts as shall be necessary to
46 pay the obligations of said association under
47 subdivision (a) of subsection (1) of this section
48 subsequent to an insolvency; (ii) the expenses of
49 handling covered claims subsequent to an
50 insolvency; (iii) the cost of examinations under
51 section 38a-846, AS AMENDED; and (iv) such other
52 expenses as are authorized by sections 38a-836 to
53 38a-853, inclusive, AS AMENDED. The assessments of
54 each member insurer shall be in the proportion
55 that the net direct written premiums of such
56 member insurer for the calendar year preceding the
57 assessment on the kinds of insurance in such
58 account bears to the net direct written premiums
59 of all member insurers for the calendar year
60 preceding the assessment on the kinds of insurance
61 in such account. Each member insurer shall be
62 notified of its assessment not later than thirty
63 days before it is due. No member insurer may be
64 assessed in any year on any account an amount
65 greater than two per cent of that member insurer's
66 net direct written premiums for the calendar year
67 preceding the assessment on the kinds of insurance
68 in said account, provided if, at the time an
69 assessment is levied on the "all other insurance"
70 account, as defined in subdivision (c) of section

71 38a-839, the board of directors finds that at
72 least fifty per cent of the total net direct
73 written premiums of a member insurer and all its
74 affiliates, for the year on which such assessment
75 is based, were from policies issued or delivered
76 in Connecticut, on risks located in this state,
77 such member insurer shall be assessed only on such
78 member insurer's net direct written premium that
79 is attributable to the kind of insurance that
80 gives rise to each covered claim. If the maximum
81 assessment, together with the other assets of said
82 association in any account, does not provide in
83 any one year in any account an amount sufficient
84 to make all necessary payments from that account,
85 the funds available may be prorated and the unpaid
86 portion shall be paid as soon thereafter as funds
87 become available. Said association may defer, in
88 whole or in part, the assessment of any member
89 insurer, if the assessment would cause the member
90 insurer's financial statement to reflect amounts
91 of capital or surplus less than the minimum
92 amounts required for a certificate of authority by
93 any jurisdiction in which the member insurer is
94 authorized to transact insurance provided that
95 during the period of deferment, no dividends shall
96 be paid to shareholders or policyholders. Deferred
97 assessments shall be paid when such payment will
98 not reduce capital or surplus below the minimum
99 amounts required for a certificate of authority.
100 Such payments shall be refunded to those insurers
101 receiving greater assessments because of such
102 deferment or, at the election of the insurer, be
103 credited against future assessments. Each member
104 insurer serving as a servicing facility may set
105 off against any assessment, authorized payments
106 made on covered claims and expenses incurred in
107 the payment of such claims by such member insurer
108 if they are chargeable to the account in respect
109 of which the assessment is made; (d) investigate
110 claims brought against said association and
111 adjust, compromise, settle, and pay covered claims
112 to the extent of said association's obligations,
113 and deny all other claims. The association shall
114 pay claims in any order it deems reasonable,
115 including but not limited to, payment in the order
116 of receipt or by classification. It may review
117 settlements, releases and judgments to which the
118 insolvent insurer or its insureds were parties to

119 determine the extent to which such settlements,
120 releases and judgments may be properly contested;
121 (e) notify such persons as the commissioner may
122 direct under subdivision (a) of subsection (2) of
123 section 38a-843; (f) handle claims through its
124 employees or through one or more insurers or other
125 persons designated by said association as
126 servicing facilities, provided such designation of
127 a servicing facility shall be subject to the
128 approval of the commissioner, and may be declined
129 by a member insurer; (g) reimburse each such
130 servicing facility for obligations of said
131 association paid by such facility and for expenses
132 incurred by such facility while handling claims on
133 behalf of said association and shall pay such
134 other expenses of said association as are
135 authorized by sections 38a-836 to 38a-853,
136 inclusive, AS AMENDED. THE PROVISIONS OF
137 SUBPARAGRAPH (ii)(B) OF THIS SUBSECTION SHALL
138 APPLY TO ALL CLAIMS FILED WITH SAID ASSOCIATION OR
139 PURSUANT TO SECTION 31-294c, INCLUDING CLAIMS
140 FILED PRIOR TO OCTOBER 1, 1997.

141 Sec. 2. This act shall take effect from its
142 passage.

143 STATEMENT OF LEGISLATIVE COMMISSIONERS: The last
144 sentence in section 1 was changed to make the
145 phraseology more clear and concise, and to avoid
146 repetition in the text of the statute.

147 LAB COMMITTEE VOTE: YEA 8 NAY 2 JFS

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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FISCAL IMPACT STATEMENT - BILL NUMBER sSB 88

STATE IMPACT None, see explanation below

MUNICIPAL IMPACT None

STATE AGENCY(S) Department of Insurance

EXPLANATION OF ESTIMATES:

There is no fiscal impact to the Department of Insurance as a result of the passage of this bill.

This change in the time limit for the payment of claims by the Connecticut Insurance Guaranty Association does not affect the Department of Insurance workload.

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OLR BILL ANALYSIS

sSB 88

AN ACT CONCERNING CLAIMS DEADLINES FOR THE CONNECTICUT INSURANCE GUARANTY FUND

SUMMARY: Public Act 97-43 requires the Connecticut Insurance Guaranty Association to pay any timely filed workers' compensation claim even if it receives that claim after its usual two-year deadline has passed. This bill applies this requirement to claims filed before October 1, 1997, the effective date of PA 97-43. Under current law, the guaranty fund can refuse to pay such a claim if it is filed more than two years after the workers' compensation insurer was declared insolvent.

The bill applies to pre-October 1, 1997 claims filed either under the workers' compensation law or with the fund. The fund pays insurance claims for insolvent insurers.

EFFECTIVE DATE: Upon passage

BACKGROUND

PA 97-43

The 1997 law coordinated the two claim filing deadlines by requiring the fund to pay any workers' compensation claim filed within the time limits specified in the workers' compensation law (within one year of an accident or three years of the first showing of a symptom of an occupational disease).

Connecticut Insurance Guaranty Association

The Connecticut Insurance Guaranty Association pays the valid claims of state residents when a property-casualty insurer becomes insolvent.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute
Yea 8 Nay 2